

No. MC 072818

The undersigned certifies to have just and reasonable grounds to believe, and does believe, that

FINGERPRINT

NOT AN ADMISSION OF GUILT

**No. MC 072818**



**COURT ACTION AND OTHER ORDERS**

The within complaint has been examined and there is probable cause for filing the same. Leave is hereby granted to file the complaint. Complaint filed

**RETURN ON SERVICE OF CITATION BY MAIL**

I hereby certify and return that on the \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_, I sent, postage paid, by RETURN RECEIPT MAIL, a copy of this citation to the defendant. On the \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_, I received the RETURN RECEIPT for said registered or certified mail, which had been signed by \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_ Said RETURN RECEIPT IS ATTACHED TO THIS ORIGINAL citation and is hereby filed with the General Sessions Court Clerk

Sworn to and subscribed before me on this  
\_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_

Signature of Officer or Authorized Agent

Phone Number

Notary Public or Deputy Clerk

Commission Expires

| COURT ACTION   |                            |                   |
|--|----------------------------|-------------------|
| DEFENDANT'S PLEA                                       | Guilty ( )                 | Not Guilty ( )    |
| In this case, I find the defendant _____ of the charge |                            |                   |
| The Court enters the following order                   |                            |                   |
| FINED \$ _____   | FORFEITED \$ _____         | JUDGMENT \$ _____ |
| CONTINUED _____  | RETURN DATE _____          | RETURN DATE _____ |
| RETURN DATE _____                                      | FAILURE TO PROSECUTE _____ |                   |
| COMPLIED WITH TERMS OF CITATION _____                  |                            |                   |
| _____<br>BY JUDGE                                      |                            |                   |
| -----  |                            |                   |
| Prosecutor/Witness                                     | Address                    | Telephone         |
| Attorney for Defendant                                 | Telephone                  |                   |

2011 FEB -2 PM 3:28

**ORDER TO SET ASIDE JUDGMENT**

The judgment heretofore entered in the cause is hereby set aside

THIS \_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
BY JUDGE

Review No. 4171

MC072818

FILED IN METRO COURT

DATE 2-9-11 TIME \_\_\_\_\_IN THE GENERAL SESSIONS COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION IV

RICHARD R. BOOKER, CLERK

BY D. Swafford D.C.

METROPOLITAN HEALTH DEPARTMENT

VS.

Citation Number MC- 072818Elizabeth AndreeORDER

The above referenced matter was heard before this Court on 9 day of February, 2011 in the Environmental Court pursuant to allegations of person(s) having a vicious dog in violation of the Metropolitan Code. After hearing testimony and evaluating the proof this Court finds:

X Said dog or dogs are found vicious and ordered to be put to sleep pursuant to the policies of the Metropolitan Health Department, Animal Control Division.

       Said dog or dogs are found vicious and ordered confined to a pen that is built pursuant to the specifications of the Metropolitan Health Department. Said dogs will not be returned to owner until pens are inspected and approved by Animal Control.

Notes/Further Findings: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A dog(s) ordered to a pen will at all times be in the pen, on a leash, or in the residence – any violation will result in the party being brought back to court to face contempt charges

Costs are taxed to the Defendant. The Defendant has ten (10) days from the date of this Order to appeal this decision.

ENTERED this the 9 day of February, 2011.

A. Toa  
Referee Division IV

## IN THE GENERAL SESSIONS COURT FOR DAVIDSON COUNTY, TENNESSEE

THE METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY

v.

Elizabeth AndreeRevised No 4223No MC072818  
Environmental CourtFILED IN METRO COURT  
DATE 2-9-11 TIME \_\_\_\_\_RICHARD R. ROOKER, CLERK  
BY [Signature] D.C.

MC072818

## ORDER

☐ Default ☐ Adjudicated ☐ Agreed Order ☐ Agreed Judgment

This cause came to be heard on the 9<sup>th</sup> day of February 2011. The defendant was/was not present and was/was not represented by counsel. This Court is of the opinion that Defendant is in violation of the Metropolitan Code of Laws, Section 8.08.030 by Vicious dog prohibited

\_\_\_\_\_ at  
property located at 1244 Mary Helen

It is therefore ORDERED, pursuant to Chapter No. 212 of the Public Acts of 1993 and Metropolitan Ordinance No. 94-930, that Defendant shall

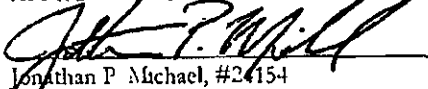
- ☒ Pay a fine of \$ 50 (Judgment)
- ☐ Pay a fine of \$ \_\_\_\_\_ day for each day in violation between \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ and \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (Judgment)
- ☐ Immediately remedy the violation and comply with the above cited section of the Metropolitan Code of Laws Section \_\_\_\_\_ and once having complied with said Order, shall continue to maintain said property in a manner consistent with this Order and above stated provision (Mandatory Injunction)
- ☐ Pay a fine of \$ \_\_\_\_\_ per day for each day the violation continues beginning \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_. A representative from Metro will recheck for compliance with this order on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_. The fine shall be stayed pending compliance hearing set for \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ at which time if the defendant has complied before the recheck date, such fine shall be waived by this court
- ☒ Further, Dog shall be put down.

Failure of Defendant to comply with this Order will result in a finding of Contempt of Court which may result in daily fines or up to 5 days in jail. This matter is reset on the Court's docket for \_\_\_\_\_ at \_\_\_\_\_ P.M. in the A A Birch Building, 408 2<sup>nd</sup> Ave North, 5<sup>th</sup> Floor Courtroom 5D, Nashville, Tennessee 37219, for further hearing on this matter, the issue of whether there has been compliance with this order, and whether the defendant should be held in contempt of court

ENTERED this 16 day of Feb, 2011[Signature]  
JIM TODD, REFEREE

2/8/2011

APPROVED FOR ENTRY




Jonathan P. Michael, #24154  
Assistant Metropolitan Attorney  
204 Metropolitan Courthouse  
Nashville, Tennessee 37201

xc Inspector/ Officer Billy Biggs  
Metropolitan Department of Animal Control  
Phone (615) \_\_\_\_\_

CERTIFICATE OF SERVICE

I certify that the above order was sent via U S mail to

Elizabeth Andree  
Defendant Name

  
Defendant Address

\_\_\_\_\_  
City, State & Zip Code

  
Jonathan P. Michael

2/8/2011

Review No. 4273**FILED**

FEB 22 2011

IN THE GENERAL SESSIONS COURT FOR DAVIDSON COUNTY, TENNESSEE

By Richard R. Rooker, Clerk  
DeputyMETROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY

VS.

CASE NO. MC072818

Elizabeth Andree  
DEFENDANT(S)

MC072818

REQUEST AND ORDER FOR REHEARING

This cause came to be heard on February 17, 2011 upon petition of the defendant for rehearing the above styled case previously heard on February 9, 2011

It is hereby decreed by the Court that the following shall be the Order of the Court:



Previous order of the Court is hereby upheld



Previous order of the Court is hereby set aside and the following Order shall be the decree of the Court: \_\_\_\_\_

*No action shall be taken from  
10 days from today's date to  
give defendant time to appear*

ENTERED this

22


day of

February, 20 11

CASEY MORELAND, JUDGE  
DIVISION X  
GENERAL SESSIONS COURT

CERTIFICATE OF SERVICE


This is to certify that a true and exact copy of the foregoing document has been mailed, postage prepaid, by U.S. Mail on this 23 day of February, 2011.

Elizabeth Andree  


Attorney James Mondelli  


Jim Conde  


Cindy and Jay Chamness  



Attorney Matthew Foster  


This is to certify that a true and exact copy of the foregoing document has been faxed on this the 23rd day of Feb, 2011 to:

Animal Control Attention: Judy Ladebauche, 880-2221.

Metro Legal Attention: Jon Michaels, 862-6352.

By:

  
Chief Clerk

**H<sup>3</sup>GM<sup>®</sup>**HARWELL HOWARD HYNE  
GABBERT & MANNER, P.C.

MC072818

February 15, 2011

**VIA HAND DELIVERY**The Honorable Casey Moreland  
Metropolitan General Sessions Court of  
Nashville and Davidson County  
408 2nd Avenue North  
Nashville, TN 37219Re: **Metropolitan Health Department v. Elizabeth Andree; Citation Number  
MC-072818**

Dear Judge Moreland:

My firm represents the City of Forest Hills, Tennessee. It has come to my attention that an appeal of the above-referenced case is scheduled for your courtroom today at 2 00 PM. I also understand from a conversation with Mr. Jon Michael, attorney for Metro, that this hearing may be re-scheduled for a later date.

While the city is not a party to this action, the City of Forest Hills respectfully requests that you take notice of the following facts:

(1) The property occupied by the defendant, located at 1244 Mary Helen Drive (the "Property"), is located within the City of Forest Hills.

(2) The City of Forest Hills maintains its own Zoning Ordinance, which regulates, *inter alia*, the construction of accessory uses, including, but not limited to dog pens and fences, and the construction of fences

(3) The Property is subject to the Zoning Ordinance.

(4) The construction of a dog pen in accordance with the Metropolitan Health Department's requirements will require a building permit and a fence permit from the City of Forest Hills.

442492-1

**FILED**315 DEADERICK STREET  
SUITE 800  
NASHVILLE, TENNESSEE 37238-1800TELEPHONE (615) 251-1000  
FACSIMILE (615) 251-1000  
RICHARD B. ROOKER, Clerk  
Deputy

D. MATTHEW FOSTER

DIRECT DIAL 615-251-1973  
EMAIL dmf@h3gm.com  
www.h3gm.com



The Honorable Casey Moreland  
February 15, 2011  
Page 2

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(4) In order to acquire a building permit, the applicant must have a legally protectable interest in the property. Where the applicant is a lessee of the property, the applicant must provide a written lease of the property.

(5) Accessory uses, such as dog pens, are subject to Section 403 of the Forest Hills Zoning Ordinance, and must be located in the rear yard of the property and setback from all lot lines according to bulk standards specified therein.

(6) Chain link fences, which are required by the Metropolitan Health Department for a dog pen, are subject to Section 410 of the Forest Hills Zoning Ordinance, and may be permitted only if (i) the fence is coated with black, dark green, or dark brown coating made of polymer or similar material, (ii) the fence does not exceed four (4) feet in height, (iii) the yard between the fence and adjacent lot is landscaped such that not less than fifty percent (50%) of the height of the fence, as measured from the finished grade, is obscured by landscaping, and (iv) a permit for the fence has been issued by the City Manager after review of a landscaping plan demonstrating compliance with these requirements

Accordingly, the City of Forest Hills respectfully requests that if the Court should require the defendant to construct a pen for the dog, then the pen must be built in strict accordance with the requirements of the City of Forest Hills in addition to the requirements of the Metropolitan Health Department

A copy of this letter is being delivered to counsel for the Metropolitan Health Department and to counsel for the defendant.

Please feel free to contact me directly if I may be of assistance in this or any other matter

Respectfully submitted,

HARWELL HOWARD HYNE  
GABBERT & MANNER, P.C.



D. Matthew Foster  
City Attorney for the City of Forest Hills

DMF/smb

cc: Mr. Al Deck, City Manager for the City of Forest Hills (via first class mail)  
Mr. Jon Michael, Attorney for Metropolitan Government (via first class mail)  
Mr. James V. Mondelli, Attorney for Defendant (via first class mail)  
Mr. Billy Biggs, Metropolitan Health Department, Animal Control (via first class mail)



CORNELIUS & COLLINS, LLP  
Law Offices



MC072818

**FILED**

FEB 22 2011

RICHARD R. ROOKER, Clerk  
By *[Signature]* Deputy

CHARLES L. CORNELIUS (1888-1968)  
CHARLES L. CORNELIUS JR. (1915-2005)  
W. OVID COLLINS, JR. (Retired)  
THOMAS I. CARLTON JR.\*  
CHARLES G. CORNELIUS  
C. BENNETT HARRISON JR.\*  
BLAKELEY D. MATTHEWS  
JOSEPH R. WHEELER  
DANIEL P. BEREXA  
JAY N. CHAMNESS

\*Rule 31 Listed General Civil Mediator

\*\* Also Admitted in Kentucky

BRYAN K. WILLIAMS  
JAMES K. SIMMS, IV  
BRIAN W. HOLMES  
BEN M. ROSE  
J. COLE DOWSLEY, JR.  
PELE I. GODKIN\*  
J. MATTHEW BLACKBURN  
JASON K. MURRIE\*\*  
JENNIFER L. MILAM

OF COUNSEL  
DAVID L. STEED  
REBECCA WELLS DEMAREE

Writer's e-mail: jnchamness@cornelius-collins.com

February 22, 2011

**VIA HAND-DELIVERY**

The Honorable Casey E. Moreland  
General Sessions Court, Div. X  
408 2nd Avenue N, Suite 5110  
Justice A A Birch Building  
Nashville, TN 37201

**Re: Metropolitan Health Department v. Elizabeth Nicole Andree**  
**General Sessions Court for Davidson County, TN**  
**Docket No.: MC-072818**

Dear Judge Moreland,

I am writing to you because, as one of the private prosecutors of this case, and out of concern for my own family's welfare, I need to make you aware of a development which has occurred since the hearing on this matter on February 17, 2011. It has come to my attention that, following the hearing, an online petition entitled "Save Prada, Nicole Andree's Dog on Death Row" has been posted by Nicole Andree and another individual named Craig Butler. The petition has listed the "Target" as Judge Casey Moreland and Davidson County Metro. I have enclosed a copy of the petition, and only a few of the comments it has generated, for your review. There is more than one version, as Ms. Andree continues to change the facts in the petition. The petition is also on Twitter and Facebook and generating multiple comments there as well.

In the second sentence of the most recent version of her petition, she says that "the attorney neighbor seems to have more influence than the truth in court." As you can see, there appears a narrative statement of Ms. Andree's version of the "facts" in this matter. Not only

Nashville City Center, Suite 1500, 511 Union Street, P.O. Box 190695, Nashville, TN 37219-0695  
P 615 244 1440 F 615 254 9477  
www.cornelius-collins.com

The Honorable Casey E. Moreland  
February 22, 2011  
Page 2

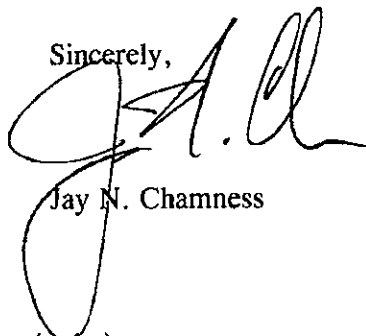
does Ms. Andree's narrative misrepresent numerous matters when compared to testimony your honor heard last week, she speaks of personal knowledge on matters involving events for which she was not even present. She impugns myself, my wife, the prosecution, Referee Todd and even yourself in stating that "Prada is Nicole's child and she will not let her die due to the buddy system in the court rooms as well as the reputation that Prada receives being a pitbull."

As you can also see, this "petition" has generated numerous comments directed at my wife and me which, frankly, have me concerned for my family's safety. There is enough information provided that it would be very easy for people to determine where we live. As you will see from the comments, we have been called "bullies," "crazy," "idiots" and "liars." We have been accused of kidnapping and animal cruelty. One individual claims that the description of events "Makes me want to bite lady neighbor #2 (my wife) myself!!!" There are references in the comments made by others to the "kangaroo court" and the "idiot prosecutor."

The steps that Ms. Andree will take to continue to put my family at risk is disturbing, particularly given your honor's admonishment on Thursday, a copy of which I have also attached. I am not sure what authority your honor has to address this matter further, but I had no choice but to bring it to your attention. I am certainly available for another hearing to address these issues, and would request one if it is appropriate.

I do know that, under Metro Code provision 8.08.030, your honor has the authority to issue an order that the owner "[b]e precluded from owning, harboring, or having custody or control of companion animals for a period of time that the court deems reasonable." I would ask that, other than Ms. Andree's existing poodle, that the Court exercise its discretion in restricting her ability to purchase yet another pit bull or similar breed.

Sincerely,



Jay N. Chamness

JNC/jat  
Enclosures

cc: Jon P Michael, Esq. (via hand-delivery w/encs.)  
James V Mondelli, Esq. (via hand-deliver w/encs.)



FILED

FEB 22 2011

IN THE GENERAL SESSIONS COURT OF DAVIDSON COUNTY RICHARD R. ROOKER, Clerk  
By [Signature] Deputy

METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY,

Plaintiff,

VS.

CASE NO.: MC072818  
Environmental Court

ELIZABETH ANDREE,

Defendant.

Excerpt of Proceedings Held Before  
THE HONORABLE CASEY MORELAND, JUDGE  
February 17, 2011


DEBRA R. CARNEY, RPR, LCR, CCR  
Accurate Court Reporting  
The Pilcher Building  
144 Second Avenue North, Suite 230  
Nashville, TN 37201  
(615) 244-DEPO or 244-3376  
[www.ACR-Nashville.com](http://www.ACR-Nashville.com)

A P P E A R A N C E S

For the Plaintiff:

Jon Michael, Esquire  
Department of Law  
Metropolitan Courthouse  
Suite 108  
Nashville, TN 37201

For the Defendant:

James Mondelli, Esquire  


ACCURATE COURT REPORTING (615) 244-DEPO or 244-3376

I N D E XPAGE

Judge's Ruling ..... 4

E X H I B I T S

| <u>Exhibit No.</u> | <u>Exhibit Description</u> | <u>Page</u> |
|--------------------|----------------------------|-------------|
|--------------------|----------------------------|-------------|

(No exhibits marked.)

JUDGE'S RULING

THE COURT: I really -- I am really glad I don't do these all the time. They would tend to wear on someone that cared about dogs at all, which it appears that everybody here does, because they are all dog owners.

But with all due respect, Ms. Andree, your indifference about the things that were testified to today on the stand through your testimony is disturbing. The fact that threatening to take out criminal charges would ever come out of your mouth is disturbing. Your apparent disregard for the safety of other animals and other people in your neighborhood is disturbing. The fact that a pin is, "Ugly and I live in Forest Hills" is disturbing. The fact that you didn't leave the house immediately and go get the dog is disturbing.

I feel like that your indifference is as much a threat to the safety of the other animals and individuals in your neighborhood as your dog is. I don't understand how you can -- you can claim that somebody kidnapped your dog when their on their property and has attacked their dog and they're holding him, doing just what the police told them, "Hold that dog until we get there." That's disturbing.

I find that the dog is vicious, and I am going

1 to take under advisement what to do at this point in  
2 time. I don't want to -- I don't want to make a ruling  
3 on Prada, because Prada probably is a good dog. I don't  
4 want to make a ruling on Prada after listening to you  
5 testify here and because of the disturbing nature of your  
6 testimony that I take it out on Prada. So I am going to  
7 step back so I won't do that.

8 But now over any objection they have, what was  
9 the recommendation that your clients were going to  
10 recommend before that testimony was objected to?

11 MR. MICHAEL: Put down order consistent with  
12 that entered by the referee.

13 THE COURT: Is that what was going to be said?

14 MR. CHAMNESS: Yes. I can elaborate.

15 THE COURT: No. I mean, that's --

16 MR. MONDELLI: I thought he testified, Your  
17 Honor, he'd just as soon see the dog move to another  
18 location.

19 THE COURT: That's what he was going to say. I  
20 got that impression anyway.

21 MR. CHAMNESS: We'd like to have -- we don't  
22 want the dog to come back to our neighborhood.  
23 Obviously, the problem is that if the dog moves to  
24 another location, it's going to be another neighborhood  
25 probably with dogs and kids and, you know, so...



1 THE COURT: The bad thing about one of these  
2 situations here is this is the case that -- that, you  
3 know, yeah, nothing happened this time, but it attacked  
4 three dogs. A lady got injured, whether or not it was  
5 her dog or whose dog, it doesn't matter. It was -- it  
6 was as a result of this dog getting out and causing the  
7 whole uproar. It's not this case I am worried about near  
8 as much as I am the next case, because it's going to be  
9 the next case that -- that the guys there at the -- with  
10 the John Deere hat on and he's in front of the camera  
11 saying, "Judge Moreland had a chance to lock him up -- or  
12 put him down and didn't put him down. And -- and if he  
13 had done that, my little girl would be alive today." I  
14 mean, those are the things that bother me.

15 MR. CHAMNESS: Your Honor, if I might say one  
16 more -- one more thing. The prosecutor mentioned  
17 Mr. Franklin. He was going to come on Tuesday. This  
18 case was continued at the request of Mr. Mondelli. He  
19 could not be here today. He is a neighbor. He's had an  
20 interaction with this dog. I've got e-mail descriptions  
21 of that interaction, but since Your Honor is taking it  
22 under advisement, I just thought that he might be able to  
23 shed some light on another incident unrelated to this  
24 one.

25 THE COURT: I will take that under advisement.

1 MR. MICHAEL: Your Honor, to the extent that  
2 you deem it appropriate to submit that as some sort of  
3 late-filed exhibit.

4 MR. MONDELLI: I would like a chance to  
5 cross-examine.

6 THE COURT: That would be kind of hard for  
7 them.

8 MR. MICHAEL: I understand.

9 THE COURT: But we have reached a point -- it's  
10 just I think the Code gives me three options, and I've  
11 got to figure out what to do, I guess, and I want to  
12 be -- I want to be -- I want to be as fair as I can to  
13 both Ms. Andree and Prada and the neighbors. But where  
14 is the dog now?

15 MR. MONDELLI: Animal control. \$18 a day.

16 MR. CHAMNESS: I can vouch for the spending  
17 expense of the proposition, Your Honor.

18 THE COURT: Yeah, I gather that. But I'll make  
19 a ruling and let everybody know. Thank you. I will do  
20 it in the form of an order, but I will call you and let  
21 you know.

22 (Proceedings adjourned 4:02 p.m.)  
23  
24  
25

1 STATE OF TENNESSEE )  
2 COUNTY OF DAVIDSON )

3  
4  
5 I, DEBRA R. CARNEY, Registered Professional  
6 Reporter, Certified Court Reporter, Licensed Court  
7 Reporter, and Notary Public in and for the State of  
8 Tennessee, do hereby certify that the foregoing  
9 transcript of the Hearing held for Davidson County,  
10 Tennessee, on the cause captioned on Page 1, on February  
11 17, 2011, is true and accurate to the best of my  
12 knowledge, skill and ability.

13 IN WITNESS WHEREOF, I have hereunto affixed my  
14 official seal and signature this 18th day of February,  
15 2011, at Nashville, Davidson County, Tennessee.  
16  
17  
18  
19

20 Debra R. Carney, RPR, LCR, CCR  
21 NCRA RPR #030481  
22 LCR #303  
23 TN CCR #277  
24 Notary Public  
25 State of Tennessee

My Commission Expires: November 5, 2014

ACCURATE COURT REPORTING (615) 244-DEPO or 244-3376